

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 Michelle McKenna,

4 Plaintiff

5 v.

6 David Z. Chesnoff, et al.,

7 Defendants

Case No.: 2:14-cv-01773-JAD-DJA

**Order Granting Motion for Leave to
Supplement MIL**

[ECF No. 191]

8 Plaintiff Michelle McKenna moves in limine to limit the trial testimony of defendants'
9 expert, Jerome Barakos, M.D., to matters that she contends fall within his area of expertise and
10 are properly supported by an accurate and complete set of the relevant facts.¹ McKenna
11 contends that several of Barakos's opinions are unsupported because they are based on only his
12 review of the imaging studies that had been performed on McKenna.² In their response,
13 defendants disagree that the imaging studies are all Barakos relied on in forming his opinions,
14 but concede that they inadvertently omitted the exhibit listing the materials that Barakos relied
15 on when they produced his report to McKenna during discovery.³ Defendants argue that this
16 omission "is immaterial," however, because all of the materials that Barakos considered had
17 been produced except a report and presentation from Dr. Orrison, who is now deceased, and
18 "Barakos reviewed all images reviewed by Dr. Orrison and formulated his own opinion
19 anyway."⁴

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21 _____
22 ¹ ECF No. 175 at 5–13.

23 ² *Id.* at 10.

³ ECF No. 190 at 7.

⁴ *Id.*

1 McKenna now moves to supplement her motion in limine to completely exclude Barakos
2 from testifying at trial.⁵ In light of the belated reveal of the exhibit to Barakos's report and his
3 apparent reliance on two items that had not been disclosed during discovery, I find good cause
4 exists to permit McKenna to supplement her motion in limine.

5 Accordingly, IT IS HEREBY ORDERED that McKenna's motion for leave to
6 supplement **[ECF No. 191]** is **GRANTED**. McKenna must file the supplement to her motion in
7 limine by November 8, 2019.⁶ Defendants must file any response to that supplement by
8 November 13, 2019.

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11 U.S. District Judge Jennifer A. Dorsey
12 November 7, 2019
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23 ⁵ ECF No. 191.

⁶ See ECF No. 191-3 (proposed supplement).